

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6563 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KELAVANI MANDAL, VANKIA

Versus

STATE OF GUJARAT

Appearance:

MR AD OZA for Petitioner
Mr. Roahsn Desai, Advocate for Respondent No. 1.
Mr. K.G.Vakharia,Sr.Counsel with Mr. MR CL SONI
Advocate for Respondent No. 2.
MR MC BHATT for Respondent No. 3

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 10/10/97

ORAL JUDGEMENT

Rule. Learned Advocate Mr. Roshan Desai appears and waives service of rule on behalf of Respondent No. 1. Mr. Soni, learned advocate appears and waives

service of rule on behalf of respondent No. 2. Mr. Bhatt, learned advocate appears and waives service of rule on behalf of respondent No. 3. At the request of the learned counsel appearing for the respective parties, the matter is immediately heard for disposal.

2. The grievance of the petitioner is that without hearing the petitioner, registration of the petitioner school has been cancelled by invoking the provisions of section 31(10) of the Gujarat Secondary Education Act, 1972 (hereinafter referred to as "the Act"). According to the petitioner, registration was granted to the petitioner school under section 31 (1) of the Act and that has been cancelled by the State Government without hearing the petitioner.

3. Admittedly, before making of the impugned order dated 28th August, 1997 at Annexure "F" to the petition by which the order of the Board dated 30th June, 1997 was set aside, no hearing was given to the petitioner. Learned counsel appearing for the respondents do not dispute that the hearing was required to be given before making any order under section 31 (10) of the Act. Since the impugned order is contrary to the principles of natural justice, it cannot be sustained and is hereby set aside. The appellate authority can proceed de novo after hearing all the concerned parties and may make a fresh order in accordance with law. The learned counsel appearing for the appellate authority states that the matter will be heard and decided within two months. Needless to say that if any order is made against any of the parties, the aggrieved party can take recourse to law. It will be open for both the sides to take up their contentions including on the question of maintainability of appeal before the appellate authority. Rule is made absolute accordingly with no order as to costs.

Vyas